

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THAN ORN, individually, THALISA ORN,  
individually, J.O. and C.O., by their  
Guardian, CLARISSE ORN,

Plaintiffs,

vs.

CITY OF TACOMA, a municipal  
corporation; and KRISTOPHER CLARK, in  
his individual capacity,

Defendants.

CASE NO. 3:13-cv-05974-MJP

PLAINTIFFS' OFFER OF PROOF  
REGARDING TACOMA POLICE  
DEPARTMENT'S ROADBLOCK  
POLICIES

PLAINTIFFS' OFFER OF PROOF REGARDING  
TACOMA POLICE DEPARTMENT'S ROADBLOCK  
POLICIES

**PFAU COCHRAN  
VERTETIS AMALA**  
ATTORNEYS AT LAW

909 A Street, Suite 700  
Tacoma, WA 98402  
(253) 777-0799 | Fax: (253) 627-0654

# **I. INTRODUCTION AND RELIEF REQUESTED**

Plaintiffs intend to publish for the jury in opening and then admit at trial policies implemented by the Tacoma Police Department (“TPD”) relating to the use of roadblocks by TPD officers. Cochran Dec., Ex. 1 (*TPD Manual – Vehicle Operations*, Plaintiffs’ Trial Exhibit No. 216); Ex. 2 (*TPD Professional Standards Sub-Section 3.2, Vehicle Operations*, Plaintiffs’ Trial Exhibit No. 236). Defendants object to the admissibility of these policies. Dkt. 203, Pg. 17, 19 (*Exhibit List*). Therefore, Plaintiffs submit this offer of proof to the Court.

Defendants object to the inclusion of these policies on the basis that they were not the policies in effect at the time of the shooting. Cochran Dec., Ex. 3, at 36:17-38:11 (*Deposition of Chief of Police Donald Ramsdell*). The record shows that Defendants are wrong. TPD’s General Directive dated May 30, 2012, establishes that the omission of policies relating to the use of roadblocks from TPD’s Policy Book and Procedure Manual during the transition from a physical to electronic Policy Book was inadvertent. Cochran Dec., Ex. 4 (*TPD General Directive*, Plaintiffs’ Trial Exhibit No. 229). During the deposition of Chief of the Tacoma Police Department Donald Ramsdell, this issue was squarely addressed:

**Q.** (By Mr. Cochran) Chief, was there any specific decision made, at any point, by the Tacoma Police Department, since you have been chief, to omit the policy regarding the use of roadblocks within TPD?

**A.** No.

**Q.** The intent of TPD was that roadblocks should still be a policy, just as it was back in 1996, as we saw in Exhibit No. 22, correct?

**MS. HOMAN:** Object as to form.

**Q.** (By Mr. Cochran) Go ahead, Chief.

**A.** Yes, that's currently-- I believe it is still currently a policy.

1       **Q.**     In October of 2011 was it TPD's desire not to have that same policy in  
2     effect, that roadblocks should not be employed, except as a last resort,  
3     necessitating the application of deadly force to a life-threatening suspect?

4       **A.**     No, not to my knowledge.  
5     Cochran Dec., Ex. 1, at 38-39.

6                               **II.     EVIDENCE RELIED UPON**

7             This memorandum relies upon the existing file on record and the Declaration of  
8     Darrell L. Cochran.

9                               **III.    CONCLUSION**

10            For the foregoing reasons, Plaintiffs respectfully ask the Court to permit counsel to  
11     publish Exhibit Nos. 216 and 236 in opening statement and to present these policies to witnesses  
12     and admit them as evidence during trial in accordance with the rules of evidence.  
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14            DATED this 22<sup>nd</sup> day of November, 2020.

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17                               **PFAU COCHRAN VERTETIS AMALA, PLLC**

18                               By /s/ Darrell L. Cochran

19                               Darrell L. Cochran, WSBA No. 22851  
20                               Thomas B. Vertetis, WSBA No. 29805  
21                               Andrew S. Ulmer, WSBA No. 51227  
22                               Alexander G. Dietz, WSBA No. 54842

23                               *Attorneys for Plaintiffs*

24                               **COCHRAN DOUGLAS, PLLC**

1 By /s/ Loren A. Cochran  
2 Loren A. Cochran, WSBA No. 32773

3 *Attorney for Plaintiffs*

4 **LAW OFFICE OF THOMAS A. BALERUD**

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6 By /s/ Thomas A. Balerud  
7 Thomas A. Balerud, WSBA No. 19539

8 *Attorney for Plaintiffs*

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PLAINTIFFS' OFFER OF PROOF REGARDING  
TACOMA POLICE DEPARTMENT'S ROADBLOCK  
POLICIES

**CERTIFICATE OF SERVICE**

I, **Andrew S. Ulmer**, hereby declare under penalty of perjury under the laws of the United States of America that I am employed at Pfau Cochran Vertetis Amala PLLC and that on today's date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Anne M. Bremner  
Karen L. Cobb  
Frey Buck, P.S.  
1200 Fifth Ave, Suite 1900  
Seattle, WA 98101  
abremner@freybuck.com  
kcobb@freybuck.com

DATED this 22<sup>nd</sup> day of November, 2020.

/s/ Andrew S. Ulmer  
Andrew S. Ulmer  
Associate Attorney